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LAW OFFICE OF JAY R. YABLON
910 NORTHUMBERLAND DRIVE
SCHENECTADY NY 12309-2814

In re Application of

GUTIN

Application No. 09/643,046

Filed: August 21, 2000

For: **OPTICAL PICKUP APPARATUS AND
METHOD**

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: DIRECTOR OFFICE
: TECHNOLOGY CENTER 2600
: DECISION ON PETITION
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This is a decision on the Petition filed October 1, 2003, which is being treated under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment. No fee is required.

The application was held abandoned for failure to respond in a timely manner to the Restriction mailed June 25, 2002. The application became abandoned when no further response was received. A Notice of Abandonment was mailed September 29, 2003.

Petitioner alleges to have timely filed a proper response to said Restriction. In support, petitioner has provided evidence of a response to the Restriction, including a Certificate of Facsimile Transmission dated July 23, 2003, and a Copy of the Docket record showing the facsimile transmission date of July 23, 2002.

Pursuant to 37 C.F.R. § 1.8 (b), a correspondence is considered timely filed by mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

1. Informs the office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
2. Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and,
3. Includes a statement, which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition meets the requirements 1) – 3) above. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file is being forwarded to the technical Support staff for entry of the response to the Restriction. From there, it will be forwarded to the Examiner for further examination.

A handwritten signature in black ink, reading "Mark R. Powell". The signature is fluid and cursive, with the first name "Mark" and last name "Powell" clearly distinguishable.

Mark Powell, Director
Technology Center 2600
Communications